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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

<p>Aaron Kozacki</p> <p>Plaintiff,</p> <p>v.</p> <p>National Credit Adjusters, LLC</p> <p>Defendant.</p>	<p>Case No: '13CV1025 WQHWMC</p> <p>Complaint For Damages</p> <p>Jury Trial Demanded</p>
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INTRODUCTION

1. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”), to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt

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1 collection practices are not competitively disadvantaged, and to promote
2 consistent State action to protect consumers against debt collection abuses.

3 2. The California legislature has determined that the banking and credit system
4 and grantors of credit to consumers are dependent upon the collection of just
5 and owing debts and that unfair or deceptive collection practices undermine
6 the public confidence that is essential to the continued functioning of the
7 banking and credit system and sound extensions of credit to consumers. The
8 Legislature has further determined that there is a need to ensure that debt
9 collectors exercise this responsibility with fairness, honesty and due regard
10 for the debtor's rights and that debt collectors must be prohibited from
11 engaging in unfair or deceptive acts or practices.

12 3. Aaron Kozacki, (Plaintiff), through Plaintiff's attorneys, brings this action to
13 challenge the actions of National Credit Adjusters, LLC, ("Defendant"), with
14 regard to attempts by Defendant to unlawfully and abusively collect a debt
15 allegedly owed by Plaintiff, and this conduct caused Plaintiff damages.

16 4. Plaintiff makes these allegations on information and belief, with the exception
17 of those allegations that pertain to a plaintiff, or to a plaintiff's counsel, which
18 Plaintiff alleges on personal knowledge.

19 5. While many violations are described below with specificity, this Complaint
20 alleges violations of the statutes cited in their entirety.

21 6. Unless otherwise stated, all the conduct engaged in by Defendant took place
22 in California.

23 7. Any violations by Defendant were knowing, willful, and intentional, and
24 Defendant did not maintain procedures reasonably adapted to avoid any such
25 violation.

26 JURISDICTION AND VENUE

27 8. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331, 15 U.S.C. §
28 1692(k), and 28 U.S.C. § 1367 for supplemental state claims.

1 9. This action arises out of Defendant's violations of the Fair Debt Collection
2 Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA") and the Rosenthal Fair
3 Debt Collection Practices Act, California Civil Code §§ 1788-1788.32
4 ("Rosenthal Act").

5 10. Because Defendant does business within the State of California, personal
6 jurisdiction is established.

7 11. Venue is proper pursuant to 28 U.S.C. § 1391.

8 12. At all times relevant, Defendant conducted business within the State of
9 California.

10 **PARTIES**

11 13. Plaintiff is a natural person who resides in the City of Chula Vista, State of
12 California.

13 14. Defendant is located in the City of Hutchinson, in the State of Kansas.

14 15. Plaintiff is obligated or allegedly obligated to pay a debt, and is a "consumer"
15 as that term is defined by 15 U.S.C. § 1692a(3).

16 16. Defendant is a person who uses an instrumentality of interstate commerce or
17 the mails in a business the principal purpose of which is the collection of
18 debts, or who regularly collects or attempts to collect, directly or indirectly,
19 debts owed or due or asserted to be owed or due another and is therefore a
20 debt collector as that phrase is defined by 15 U.S.C. § 1692a(6).

21 17. Plaintiff is a natural person from whom a debt collector sought to collect a
22 consumer debt which was due and owing or alleged to be due and owing from
23 Plaintiff, and is a "debtor" as that term is defined by California Civil Code §
24 1788.2(h).

25 18. Defendant, in the ordinary course of business, regularly, on behalf of himself,
26 herself, or others, engages in debt collection as that term is defined by
27 California Civil Code § 1788.2(b), is therefore a debt collector as that term is
28 defined by California Civil Code § 1788.2(c).

19. This case involves money, property or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. As such, this action arises out of a consumer debt and “consumer credit” as those terms are defined by Cal. Civ. Code § 1788.2(f).

FACTUAL ALLEGATIONS

20. Sometime before March 25, 2013, Plaintiff is alleged to have incurred certain financial obligations.

21. These financial obligations were primarily for personal, family or household purposes and are therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

22. These alleged obligations were money, property, or their equivalent, which is due or owing, or alleged to be due or owing, from a natural person to another person and are therefore a “debt” as that term is defined by California Civil Code §1788.2(d), and a “consumer debt” as that term is defined by California Civil Code §1788.2(f).

23. Sometime thereafter, but before March 25, 2013, Plaintiff allegedly fell behind in the payments allegedly owed on the alleged debt. Plaintiff currently takes no position as to the validity of this alleged debt.

24. Subsequently, but before March 25, 2013, the alleged debt was assigned, placed, or otherwise transferred, to Defendant for collection.

25. Subsequently, but before March 25, 2013, Defendant’s called Plaintiff’s home in search of Plaintiff and spoke with Plaintiff’s parents regarding the alleged debt. Defendant’s spoke to Plaintiff’s parents about the details of the alleged debt.

26. Plaintiff was extremely embarrassed to have his mother and father her from someone on the phone that he allegedly owed money.

27. Except as provided in 15 U.S.C. § 1692b, and without the prior consent of the consumer given directly to the Defendant, and without the express permission

1 of a court of competent jurisdiction, and for a purpose not reasonably
2 necessary to effectuate a postjudgment judicial remedy, Defendant
3 communicated, in connection with the collection of a debt, with a person
4 other than the consumer, his attorney, a consumer reporting agency, the
5 creditor, the attorney of the creditor, or the attorney of Defendant.
6 Consequently, Defendant violated 15 U.S.C. § 1692c(b).

7 28. Because this violated certain portions of the federal Fair Debt Collection
8 Practices Act as these portions are incorporated by reference in the Rosenthal
9 Fair Debt Collection Practices Act, through California Civil Code § 1788.17,
10 this conduct or omission violated Cal. Civ. Code § 1788.17.

11 29. Subsequently, on or about March 25, 2013, Defendant telephoned Plaintiff
12 and demanded payment of the alleged debt.

13 30. This communication to Plaintiff was a “communication” as that term is
14 defined by 15 U.S.C. § 1692a(2), and an “initial communication” consistent
15 with 15 U.S.C. § 1692g(a).

16 31. This communication was a “debt collection” as Cal. Civ. Code 1788.2(b)
17 defines that phrase, and an “initial communication” consistent with Cal. Civ.
18 Code § 1812.700(b).

19 32. Defendant told Plaintiff that if Plaintiff didn’t pay \$25.00 within the hour,
20 Defendant would arrange a warrant for the arrest of Plaintiff.

21 33. Through this conduct, Defendant threatened to take action that cannot legally
22 be taken or that is not intended to be taken. Consequently, Defendant violated
23 15 U.S.C. § 1692e(5) as well as Cal. Civ. Code § 1788.17.

24 34. Through this conduct, Defendant used false representations or deceptive
25 means to collect or attempt to collect a debt or to obtain information
26 concerning a consumer. Consequently, Defendant violated 15 U.S.C. § 1692e
27 and 15 U.S.C. § 1692e(10) as well as Cal. Civ. Code § 1788.17.
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1 35. Later the same day, Plaintiff called Defendant to acquire Defendant's address.
2 Defendant provided the address and repeated the threat of arrest.

3 36. Defendant has no legal grounds to contact police officers regarding a debt or
4 to effectuate any sort of warrant.

5 37. Through this conduct, Defendant threatened to take action that cannot legally
6 be taken or that is not intended to be taken. Consequently, Defendant violated
7 15 U.S.C. § 1692e(5) as well as Cal. Civ. Code § 1788.17.

8 38. Through this conduct, Defendant used false representations or deceptive
9 means to collect or attempt to collect a debt or to obtain information
10 concerning a consumer. Consequently, Defendant violated 15 U.S.C. § 1692e
11 and 15 U.S.C. § 1692e(10) as well as Cal. Civ. Code § 1788.17.

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CAUSES OF ACTION**COUNT I****FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)****15 U.S.C. §§ 1692 ET SEQ.**

39. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

40. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

41. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

COUNT II**ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (ROSENTHAL ACT)****CAL. CIV. CODE §§ 1788-1788.32**

42. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

43. The foregoing acts and omissions constitute numerous and multiple violations of the Rosenthal Act, including but not limited to each and every one of the above-cited provisions of the Rosenthal Act, Cal. Civ. Code §§ 1788-1788.32

44. As a result of each and every violation of the Rosenthal Act, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from Defendant.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and Plaintiff be awarded damages from Defendant, as follows:

- An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3);
- An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b);
- An award of costs of litigation and reasonable attorney's fees, pursuant to Cal. Civ. Code § 1788.30(c).

45. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,

Hyde & Swigart

Date: April 30, 2013

By: /s/Jessica R. K. Dorman
Jessica R. K. Dorman
Attorneys for Plaintiff